

AMENDED IN ASSEMBLY AUGUST 28, 1998  
AMENDED IN ASSEMBLY AUGUST 24, 1998  
AMENDED IN ASSEMBLY AUGUST 20, 1998  
AMENDED IN ASSEMBLY AUGUST 3, 1998  
AMENDED IN ASSEMBLY JUNE 22, 1998  
AMENDED IN SENATE MAY 12, 1998  
AMENDED IN SENATE MAY 4, 1998  
AMENDED IN SENATE APRIL 16, 1998  
AMENDED IN SENATE APRIL 13, 1998  
AMENDED IN SENATE MARCH 26, 1998

**SENATE BILL**

**No. 1823**

**Introduced by Senator Kelley**

February 19, 1998

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An act to add ~~Sections 11466.24 and 16122.5 to Section 11466.24 to, and to add and repeal Section 16122.5 of,~~ the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1823, as amended, Kelley. Public social services: foster care and adoption.

Existing law limits the amount the state compensates private adoption agencies for costs for the placement of certain children to \$3,500 per child adopted.

This bill would, *until July 1, 2001*, notwithstanding those limitations, authorize the state, upon request of ~~a county~~ *Sacramento County*, to make supplemental payments to private adoption agencies that serve older children or children with special and significant needs whose adoption is unlikely without services from those adoption agencies. The bill would require the requesting county to bear the cost of the supplemental payments.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which payments are made to foster care providers on behalf of eligible low-income children.

Under existing law, a procedure is provided for collection of overpayments by foster group homes.

This bill would require each county to collect AFDC-FC overpayments to foster family homes and the homes of the approved homes of relatives or nonrelative legal guardians. By increasing the duties of counties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11466.24 is added to the Welfare  
2 and Institutions Code, to read:

3 11466.24. (a) In accordance with this section, a  
4 county shall collect an overpayment, discovered on or  
5 after January 1, 1999, made to a foster family home, an  
6 approved home of a relative, or an approved home of a  
7 nonrelative legal guardian, for any period of time in

1 which the foster child was not cared for in that home,  
2 unless any of the following conditions exist, in which case  
3 a county shall not collect the overpayment:

4 (1) The cost of the collection exceeds that amount of  
5 the overpayment that is likely to be recovered by the  
6 county. The cost of collecting the overpayment and the  
7 likelihood of collection shall be documented by the  
8 county.

9 (2) The child was temporarily removed from the  
10 home and payment was owed to the provider to maintain  
11 the child's placement.

12 (3) The overpayment was exclusively the result of a  
13 county administrative error or both the county welfare  
14 department and the provider were unaware of the  
15 information that would establish that the foster child was  
16 not eligible for foster care benefits.

17 (4) The provider did not have knowledge of, and did  
18 not contribute to, the cause of the overpayment.

19 (b) (1) After notification by a county of an  
20 overpayment to a foster family home, an approved home  
21 of a relative, or an approved home of a nonrelative legal  
22 guardian, and a demand letter for repayment, the foster  
23 parent, approved relative, or approved nonrelative legal  
24 guardian may request the county welfare department to  
25 review the overpayment determination in an informal  
26 hearing, or may file with the department a request for a  
27 hearing to appeal the overpayment determination.  
28 Requesting an informal hearing shall not preclude a  
29 payee from seeking a formal hearing at a later date. The  
30 county welfare department shall dismiss the  
31 overpayment repayment request if it determines the  
32 action to be incorrect through an initial review prior to  
33 a state hearing, or through a review in an informal  
34 hearing held at the request of the foster parent, relative,  
35 or nonrelative legal guardian.

36 (2) If a review does not result in the dismissal of the  
37 overpayment, or a hearing is not requested, or on the 30th  
38 day following a formal appeal hearing decision,  
39 whichever is later, foster family home overpayment shall  
40 be sustained for collection purposes.

1 (3) The department shall adopt regulations that  
2 ensure that the best interests of the child shall be the  
3 primary concern of the county welfare director in any  
4 repayment agreement.

5 (c) (1) The department shall develop regulations for  
6 recovery of overpayments made to any foster family  
7 home, approved home of a relative, or approved home of  
8 a nonrelative legal guardian. The regulations shall  
9 prioritize collection methods, that shall include voluntary  
10 repayment agreement procedures and involuntary  
11 overpayment collection procedures. These procedures  
12 shall take into account the amount of the overpayment  
13 and a minimum required payment amount.

14 (2) A county shall not collect an overpayment through  
15 the use of an involuntary payment agreement unless a  
16 foster family home, an approved home of a relative, or an  
17 approved home of a nonrelative legal guardian has  
18 rejected the offer of a voluntary overpayment  
19 agreement, or has failed to comply with the terms of the  
20 voluntary overpayment agreement.

21 (3) A county shall not be permitted to collect an  
22 overpayment through the offset of payments due to a  
23 foster family home, an approved home of a relative, or an  
24 approved home of a nonrelative legal guardian unless this  
25 method of repayment is requested by the provider in a  
26 voluntary repayment agreement, or other circumstances  
27 defined by the department by regulation.

28 (d) If a provider is successful in its appeal of a collected  
29 overpayment, it shall be repaid the collected  
30 overpayment plus simple interest based on the Surplus  
31 Money Investment Fund.

32 (e) A county may not collect interest on the  
33 repayment of an overpayment.

34 (f) There shall be a one-year statute of limitations from  
35 the date upon which the county determined that there  
36 was an overpayment.

37 SEC. 2. Section 16122.5 is added to the Welfare and  
38 Institutions Code, to read:

39 16122.5. (a) Notwithstanding the limitations placed  
40 on payments in Section 16122, the state may, upon

1 request by a ~~county~~ Sacramento County, provide  
2 supplemental payments to private adoption agencies that  
3 serve older children or children with special and  
4 significant needs whose adoption is unlikely without  
5 services from those adoption agencies. The cost of the  
6 supplemental payments shall be borne by the requesting  
7 county.

8 *(b) Nothing in this section shall be construed to*  
9 *authorize or permit the displacement of existing county*  
10 *workers.*

11 *(c) This section shall become inoperative on July 1,*  
12 *2001, and, as of January 1, 2002, is repealed, unless a later*  
13 *enacted statute, that becomes operative on or before*  
14 *January 1, 2002, deletes or extends the dates on which it*  
15 *becomes inoperative and is repealed.*

16 SEC. 3. No reimbursement is required by this act  
17 pursuant to Section 6 of Article XIII B of the California  
18 Constitution because this act provides for offsetting  
19 savings to local agencies or school districts that result in  
20 no net costs to the local agencies or school districts, within  
21 the meaning of Section 17556 of the Government Code.

22 Notwithstanding Section 17580 of the Government  
23 Code, unless otherwise specified, the provisions of this act  
24 shall become operative on the same date that the act  
25 takes effect pursuant to the California Constitution.